

State of Wisconsin, Department of Revenue

DIVISION OF STATE AND LOCAL FINANCE, BUREAU OF PROPERTY TAX, 2135 Rimrock Road, P.O. Box 8971, MS6-97, Madison, WI 53708-8971

REAL ESTATE TRANSFER NEWS (RETN)

SHERIFF SALES

March 2007

This memorandum is an update of prior letters issued to clarify when exemption s. 77.25(14), Stats. applies, or if a fee is due on a sheriff sale and how the transfer returns should be completed.

A recent review of Sheriff Sales by the Department has resulted in assessments of additional transfer fee being made to several county sheriff offices. Not all sales by foreclosure are exempt from the transfer fee and this memorandum clarifies when a sale by foreclosure is exempt and when a fee is due.

Exemption s. 77.25(14), Stats. applies when "Under a foreclosure or a deed in lieu of a foreclosure to a person holding a mortgage or to a seller under a land contract."

A transfer fee is due whenever a "third party" is the successful bidder. A "third party" is defined as someone who is not holding a lien or mortgage on the property or if under a land contract, is not the seller (vendor). Usually lien holders are listed as plaintiffs or defendants in the foreclosure judgment; consequently, the propriety of the exemption per s. 77.25(14), Stats. is fairly easy to establish. The Sheriff acts as trustee/fiduciary for the debtor and does not have title to the property; therefore, the Sheriff is NOT the grantor and the exemption per s. 77.25(2), Stats. cannot be used.

When a transfer fee is due, it is calculated on the amount of the successful bid and is to be paid out of the proceeds on the sale in the same manner as all other expenses are paid per s. 846.16, Stats. The statute further states the Sheriff shall deposit a completed transfer return, a transfer fee (if due) and the sheriff's deed with the Clerk of Court who shall then transmit all to the Register of Deeds. The Sheriff is acting as trustee/fiduciary for the debtor and is responsible to ensure that these expenses are properly satisfied. Since the Sheriff is to collect the fee, the Department has sent the additional transfer fee assessments to the Sheriff to collect the additional assessment.

The proper name for PART 1 - GRANTOR is the debtor's name (current titleholder) and, likewise, their social security number. If the debtor's social security number and address cannot be obtained after a reasonable search, all number 9's may be put on the return. The Sheriff does not have title to the property and is not the grantor. The Sheriff's name, address and telephone number must be filled in as grantor's agent. The remaining parts of the return are to be completed in the same manner as with any other conveyance.

Please share this letter with your County Sheriff, County Clerk of Court and other interested persons. This letter is also being posted on our web site: <http://www.revenue.wi.gov/ust/retn.html>

If you have any questions or comments, please do not hesitate to contact:

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